

Part 3

Operational Requirements

13-49-301 Requirements for written contract -- Prohibited statements.

- (1)
 - (a) Before an immigration consultant may provide services to a client, the immigration consultant shall provide the client with a written contract. The contents of the written contract shall comply with this section and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) A client may cancel a written contract on or before midnight of the third business day after execution of the written contract, excluding weekends and state and federal holidays.
- (2) A written contract under this section shall be stated in both English and in the client's native language.
- (3) A written contract under this section shall:
 - (a) state the purpose for which the immigration consultant has been hired;
 - (b) state the one or more services to be performed;
 - (c) state the price for a service to be performed;
 - (d) include a statement printed in 10-point boldface type that the immigration consultant is not an attorney and may not perform the legal services that an attorney performs;
 - (e) with regard to a document to be prepared by the immigration consultant:
 - (i) list the document to be prepared;
 - (ii) explain the purpose of the document;
 - (iii) explain the process to be followed in preparing of the document;
 - (iv) explain the action to be taken by the immigration consultant;
 - (v) state the agency or office where each document will be filed; and
 - (vi) state the approximate processing times according to current published agency guidelines;
 - (f) include a provision stating that the person may report complaints relating to an immigration consultant to the:
 - (i) division, including a toll-free telephone number and Internet web site; and
 - (ii) Office of Immigrant Assistance of the United States Department of Justice, including a toll-free telephone number and Internet website;
 - (g) include a provision stating that complaints concerning the unauthorized practice of law may be reported to the Utah State Bar, including a toll-free telephone number and Internet website; and
 - (h) in accordance with Subsection (1)(b), include a provision stating in bold on the first page of the written contract in both English and in the client's native language in accordance with Subsection (2): "You may cancel this contract on or before midnight of the third business day after execution of the written contract."
- (4) A written contract may not contain a provision relating to the following:
 - (a) a guarantee or promise, unless the immigration consultant has some basis in fact for making the guarantee or promise; or
 - (b) a statement that the immigration consultant can or will obtain a special favor from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on a client's immigration matter.
- (5) An immigration consultant may not make a statement described in Subsection (4) orally to a client.

(6) A written contract is void if not written in accordance with this section.

Amended by Chapter 236, 2015 General Session

13-49-302 Accounting for services -- Receipts.

- (1) An immigration consultant shall provide a signed receipt to a client for each payment made by that client. The receipt shall be typed or computer generated on the immigration consultant's letterhead.
- (2) An immigration consultant shall make a statement of accounting for the services rendered and payments made:
 - (a) in the client's native language;
 - (b) to the client every two months;
 - (c) that is typed or computer generated on the immigration consultant's letterhead;
 - (d) that lists the individual charges and total charges for services; and
 - (e) that lists the payments made by the client.

Enacted by Chapter 375, 2012 General Session

13-49-303 Notice to be displayed -- Disclosure to be provided in writing.

- (1) An immigration consultant shall conspicuously display in the immigration consultant's office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the immigration consultant's clientele, that contains the following information:
 - (a) the full name, address, and evidence of compliance with any applicable bonding requirement including the bond number;
 - (b) a statement that the immigration consultant is not an attorney; and
 - (c) the name of each immigration consultant employed at each location.
- (2)
 - (a) Before providing any services, an immigration consultant shall provide a client with a written disclosure in the native language of the client that includes the following:
 - (i) the immigration consultant's name, address, and telephone number;
 - (ii) the immigration consultant's agent for service of process;
 - (iii) evidence of compliance with any applicable bonding requirement, including the bond number; and
 - (iv) a list of the services that the immigration consultant provides and the current and total fee for each service.
 - (b) An immigration consultant shall obtain the signature of the client verifying that the client received the written disclosures described in Subsection (2)(a) before a service is provided.
- (3)
 - (a) Except as provided in Subsections (3)(b) and (3)(c), an immigration consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as an immigration consultant, shall include in that advertisement a clear and conspicuous statement that the immigration consultant is not an attorney.
 - (b) Subsection (3)(a) does not apply to an immigration consultant who is not licensed as an attorney in any state or territory of the United States, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services. A person described in this Subsection (3)(b) shall include in an

advertisement for services as an immigration consultant a clear and conspicuous statement that the immigration consultant is not an attorney, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

- (c) Subsection (3)(a) does not apply to a person who is not an active member of the Utah State Bar, but is an attorney licensed in another state or territory of the United States and is admitted to practice before the Board of Immigration Appeals or the United States Citizenship and Immigration Services. A person described in this Subsection (3)(c) shall include in any advertisement for immigration services a clear and conspicuous statement that the person is not an attorney licensed to practice law in this state, but is an attorney licensed in another state or territory of the United States, and is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.
- (4) If an advertisement subject to this section is in a language other than English, the statement required by Subsection (3) shall be in the same language as the advertisement.

Amended by Chapter 236, 2015 General Session

13-49-304 Translations -- Prohibited acts.

- (1) For purposes of this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.
- (2) An immigration consultant may not, with the intent to mislead, literally translate, from English into another language, words or titles, including, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the immigration consultant is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant.

Amended by Chapter 236, 2015 General Session

13-49-305 Documents -- Treatment of original documents.

- (1) An immigration consultant shall deliver to a client a copy of a document completed on behalf of the client. An immigration consultant shall include on a document delivered to a client the name and address of the immigration consultant.
- (2) An immigration consultant shall retain a copy of a document of a client for not less than three years from the date of the last service to the client.
- (3)
 - (a) An immigration consultant shall return to a client all original documents that the client has provided to the immigration consultant in support of the client's application including an original birth certificate, rental agreement, utility bill, employment document, a registration document issued by the Division of Motor Vehicles, or a passport.
 - (b) An original document that does not need to be submitted to immigration authorities as an original document shall be returned by the immigration consultant immediately after making a copy.

Amended by Chapter 236, 2015 General Session